

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

**American Creditors Life Insurance Company
NAIC No. 94439**

Enforcement Case No. 09-7338

Respondent.

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Issued and entered

on May 4 2012
Annette E. Flood
Chief Deputy Commissioner

ORDER OF REVOCATION OF CERTIFICATE OF AUTHORITY

A. STATEMENT OF LAW

1. The Office of Financial and Insurance Regulation (OFIR) is responsible for the licensing and regulation of insurance companies and the enforcement of the provisions of the Michigan Insurance Code (Code), 1956 PA 218, as amended, MCL 500.100 *et seq.*
2. Section 150(1) of the Insurance Code of 1956, as amended, MCL 500.150(1), states:

(1) Any person who violates any provision of this act for which a specific penalty is not provided under any other provision of this act or of other laws applicable to the violation shall be afforded an opportunity for a hearing before the commissioner pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. If the commissioner finds that a violation has occurred, the commissioner shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the commissioner may order any of the following:

(a) Payment of a civil fine of not more than \$500.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this act, the commissioner

may order the payment of a civil fine of not more than \$2,500.00 for each violation. With respect to filings made under chapters 21, 22, 23, 24, and 26, "violation" means a filing not in compliance with the provisions of those chapters and does not include an action with respect to an individual policy based upon a noncomplying filing. An order of the commissioner under this subdivision shall not require the payment of civil fines exceeding \$25,000.00. A fine collected under this subdivision shall be turned over to the state treasurer and credited to the general fund.

(b) The suspension, limitation, or revocation of the person's license or certificate of authority.

3. Section 224(4)(c) of the Insurance Code of 1956, as amended, MCL 500.224(4)(c), states:

(4) An insurer is subject to a regulatory fee instead of the costs and expenses provided for in subsections (2) and (3). By June 30 of each year or within 30 days after the enactment into law of any appropriation for the insurance bureau's operation, the commissioner shall impose upon all insurers authorized to do business in this state a regulatory fee calculated as follows:

(c) Each insurer's regulatory fee shall be a minimum fee of \$250.00 and shall be determined by multiplying the actual assessment rate by the assessment base of that insurer as determined by the commissioner from the insurer's annual statement for the immediately preceding calendar year filed with the commissioner.

4. Section 240(1) of the Insurance Code of 1956, as amended, MCL 500.240(1), states:

(1) The commissioner shall collect, and the person affected shall pay to the commissioner, the following fees:

(a) Filing fee for original authorization to transact insurance or health maintenance organization business in this state, for each domestic, foreign, and alien insurer, and each health maintenance organization - \$ 25.00.

(b) Filing fee for annual statement of foreign and alien insurers, each year, subject to section 476a - \$ 25.00.

(c) Agent's appointment fee, resident or nonresident, payable by insurer or health maintenance organization so represented, for each agent, each year - \$ 5.00.

(d) Application fee payable by each initial applicant for license as resident agent, nonresident agent, surplus lines agent, solicitor, counselor, or adjuster, not transferable or refundable - \$ 10.00.

(e) Solicitor's license, each year - \$ 10.00.

(f) Insurance counselor license, each year - \$ 10.00.

(g) Adjuster's license, each year - \$ 5.00.

(h) License examination fee, payable by applicant for all subjects covered in any 1 examination, or portion of an examination, for license as resident agent, surplus lines agent, solicitor, counselor, or adjuster, each examination, not transferable or refundable - \$ 10.00.

(i) Surplus lines agent license each year - \$ 100.00.

5. Section 436 of the Insurance Code of 1956, as amended, MCL 500.436, states in part:

The Commissioner may suspend, revoke, or limit the certificate of authority of an insurer if he determines that any of the following conditions exist:

(b) The insurer's condition is no longer safe, reliable, or entitled to public confidence, or is unsound, or the insurer is using financial methods and practices in the conduct of its business that render further transaction of insurance by the insurer in this state hazardous to policyholders, creditors, or the public.

(e) The insurer fails to promptly comply with sections 222 or 438.

(g) The insurer has failed, within 30 days after notice of delinquency from the Commissioner, to cure its failure to pay the taxes, fees, assessments, or expenses required by this Act

(h) The insurer has violated any other provision of the Insurance Code that provides for suspension or revocation of its certificate of authority.

6. Section 437 of the Insurance Code of 1956, as amended, MCL 500.437, states:

(1) A proceeding to suspend, revoke, or limit an insurer's certificate of authority shall be initiated by the commissioner by granting the insurer an opportunity to show compliance with all lawful requirements as provided under section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws. If the commissioner subsequently determines pursuant to section 436 to suspend, revoke, or limit the insurer's certificate of authority, the determination and the reasons for the determination shall be stated in the order of suspension, revocation, or limitation.

(2) The insurer aggrieved by the commissioner's determination and order issued under section 436 shall be entitled to a contested case hearing pursuant to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. During the pendency of the contested case proceeding, the commissioner's order shall remain in effect, except as modified by the commissioner or as stayed by a court pursuant to section 244.

(3) The commissioner's order and determination may be confirmed or modified by the commissioner as the result of a contested case hearing and shall be the final decision or order in the contested case.

(4) Upon suspension, revocation, or limitation of an insurer's certificate of authority, if the commissioner considers it necessary or desirable for the protection of the public, he or she may mail notice of the action to the insurer's agents and publish notice of the suspension, revocation, or limitation in 1 or more newspapers of general circulation in the state.

(5) The commissioner's order of limitation may restrict the solicitation of new business within the state, may restrict the renewal of business in force within the state, may require the reinsurance of business in force within the state and, if reinsurance is not effected within 30 days after the order requiring reinsurance is issued, may require cancellation of business in force within the state and may impose such other conditions to continued

authorization as are reasonably necessary to protect policyholders, creditors, and the public.

7. Section 438 of the Insurance Code of 1956, as amended, MCL 500.438, states in part:

(1) Each insurer, foreign, alien, U.S. branch, or domestic, transacting business within this state, shall annually, on or before March 1, prepare under oath and deposit with the commissioner a statement concerning its affairs in a form and manner as prescribed by the commissioner. The annual statement shall be filed on or before March 1 of the year following that covered by the statement. Upon request and for good cause shown, the commissioner may grant to any company reasonable extensions of the March 1 filing date for periods not to exceed 30 days. The insurer shall pay the filing fee prescribed in section 240(1)(b).

(5) Each authorized insurer that fails to make or deposit the annual statement required by this section, or fails to reply within 30 days to an inquiry of the commissioner, is subject to a civil penalty of not less than \$1,000.00 or more than \$5,000.00, and an additional \$50.00 for every day that the insurer fails to make and deposit the annual statement or reply to the inquiry. In addition, each insurer that fails to make and deposit an annual statement, or fails to make a satisfactory reply to an inquiry of the commissioner, concerning the insurer's affairs shall be subject to proceedings under section 436.

8. Section 476a(1) of the Insurance Code of 1956, as amended, MCL 500.476a(1), states:

(1) Beginning August 3, 1987, whenever, by a law in force outside of this state or country, a domestic insurer or agent of a domestic insurer is required to make a deposit of securities for the protection of policyholders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, or otherwise, or a special burden or other burden is imposed, greater in the aggregate than is required by the laws of this state for a similar alien or foreign insurer or agent of an alien or foreign insurer, the alien or foreign insurer of that state or country is required, as a condition precedent to its transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the revenue commissioner for taxes, fines, penalties, certificates of authority, valuation of policies, and otherwise an amount equal in the aggregate to the

charges and payments imposed by the laws of the other state or country upon a similar domestic insurer and the agents of a domestic insurer, regardless of whether a domestic insurer or agent of a domestic insurer is actually transacting business in that state or country. For fire department or salvage corps taxes or other local taxes the amount shall be computed by the revenue commissioner by dividing the total of the payments made by domestic insurers in that state or country by the gross premium received by domestic insurers in that state or country less return premiums. The commissioner shall revoke the certificate of authority of an alien or foreign insurer refusing for 30 days to make payment of fees or taxes as required by this chapter. Except as provided in subsections (3) and (4), for purposes of this section, an insurer organized under the laws of a state or country other than these United States shall be considered an insurer of the state in which its general deposit for the benefit of its policyholders is made.

9. Section 1208a(4) of the Insurance Code of 1956, as amended, MCL 500.1208a(4), states:

(4) An insurer shall pay an appointment fee and a renewal appointment fee as provided under section 240(1)(c) for each insurance producer appointed or renewed by the insurer.

10. Section 1244(1) of the Insurance Code of 1956, as amended, MCL 500.1244(1), states:

(1) If the commissioner finds that a person has violated this chapter, after an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the commissioner may order any of the following:

(a) Payment of a civil fine of not more than \$500.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this chapter, the commissioner may order the payment of a civil fine of not more than \$2,500.00 for each violation. An order of the commissioner under this subsection shall not require the payment of civil fines exceeding \$25,000.00. A fine collected under this subdivision shall be turned over to the state treasurer and credited to the general fund of the state.

(b) A refund of any overcharges.

(c) That restitution be made to the insured or other claimant to cover incurred losses, damages, or other harm attributable to the acts of the person found to be in violation of this chapter.

(d) The suspension or revocation of the person's license.

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. American Creditors Life Insurance Company is an authorized Life and Annuity, and Disability Insurer in the state of Michigan.
12. On or about January 29, 2007, the Office of Financial and Insurance Regulation (OFIR) sent American Creditors Life Insurance Company Invoice No. 00751859 for payment of \$25.00 for the Annual Statement Filing Fee for Insurers.
13. Invoice No. 00751859 clearly indicated that American Creditors Life Insurance Company's payment of \$25.00 was due by March 1, 2007.
14. On April 13, 2007, OFIR staff left a voicemail message warning American Creditors Life Insurance Company that its certificate of authority was in jeopardy because payment was overdue, and sent warning communications on May 29 and June 22, 2007, as well as re-sending the invoice June 1, 2007. Payment was not made until after a final warning was issued on June 22, 2007, almost four months after it was due.
15. On or about January 28, 2008, OFIR sent American Creditors Life Insurance Company Invoice No. 00777014 for payment of \$25.00 for the Annual Statement Filing Fee for Insurers.
16. Invoice No. 00777014 clearly indicated that American Creditors Life Insurance Company's payment of \$25.00 was due by March 1, 2008.
17. OFIR staff sent American Creditors Life Insurance Company warning communications on April 16, 2008 and May 5, 2008, as well as sending a final notice invoice on May 21, 2008. Payment was not received from American Creditors until June 12, 2008, more than three months after it was due.
18. On or about June 30, 2008, OFIR sent American Creditors Life Insurance Company Invoice No. 00794953 for payment of \$250.00 for the Regulatory Assessment Fee.
19. Invoice No. 00794953 clearly indicated that American Creditors Life Insurance Company's payment of \$250.00 was due by July 29, 2008.

20. OFIR staff sent American Creditors Life Insurance Company warning communications concerning the overdue fee payment. American Creditors Life Insurance Company's payment was not received until June 24, 2009, almost 11 months late.
21. On or about January 21, 2009, OFIR sent American Creditors Life Insurance Company Invoice No. 00800293 for payment of \$400.00 for the Agent Appointment Renewal Fee.
22. Invoice No. 00800293 clearly indicated that American Creditors Life Insurance Company's payment of \$400.00 was due by February 20, 2009.
23. American Creditors Life Insurance Company's payment was not received until June 25, 2009, over four months late.
24. On or about January 26, 2009, OFIR sent American Creditors Life Insurance Company Invoice No. 00801036 for payment of \$25.00 for the Annual Statement Filing Fee for Insurers.
25. Invoice No. 00801036 clearly indicated that American Creditors Life Insurance Company's payment of \$25.00 was due by March 1, 2009.
26. OFIR staff sent American Creditors Life Insurance Company warnings communications on March 30, 2009 and May 26, 2009 that its overdue payment was jeopardizing its certificate of authority in Michigan. Payment was not received from American Creditors until August 31, 2009, more than five months after it was due.
27. On or about January 19, 2010, OFIR sent American Creditors Life Insurance Company Invoice No. 00828434 for payment of \$310.00 for the Agent Appointment Renewal Fee.
28. Invoice No. 00828434 clearly indicated that American Creditors Life Insurance Company's payment of \$310.00 was due by February 18, 2010.
29. American Creditors Life Insurance Company failed to timely pay Invoice No. 00828434.
30. On May 13, 2011, fifteen months after the Invoice was due, American Creditors Life Insurance Company paid Invoice No. 00828434.
31. On or about January 18, 2011, OFIR sent American Creditors Life Insurance Company Invoice No. 00851398 for payment of \$150.00 for the Agent Appointment Renewal Fee.
32. Invoice No. 00851398 clearly indicated that American Creditors Life Insurance Company's payment of \$150.00 was due by February 17, 2010.
33. American Creditors Life Insurance Company failed to timely pay Invoice No. 00851398.

34. On December 20, 2011, ten months after the Invoice was due, American Creditors Life Insurance Company paid Invoice No. 00851398.
35. On or about February 22, 2011, OFIR sent American Creditors Life Insurance Company Invoice No. 00865409 for payment of \$25.00 for the Annual Statement Filing Fee for Insurers.
36. Invoice No. 00865409 clearly indicated that American Creditors Life Insurance Company's payment of \$25.00 was due by March 24, 2011.
37. American Creditors Life Insurance Company has failed to pay Invoice No. 00865409.
38. On or about June 28, 2011, OFIR sent American Creditors Life Insurance Company Invoice No. 00869275 for payment of \$250.00 for the Regulatory Assessment Fee.
39. Invoice No. 00869275 clearly indicated that American Creditors Life Insurance Company's payment of \$250.00 was due by July 28, 2011.
40. American Creditors Life Insurance Company has failed to pay Invoice No. 00869275.
41. On or about January 17, 2012, OFIR sent American Creditors Life Insurance Company Invoice No. 00875214 for payment of \$130.00 for the Agent Appointment Renewal Fee.
42. Invoice No. 00875214 clearly indicated that American Creditors Life Insurance Company's payment of \$130.00 was due by February 16, 2012.
43. American Creditors Life Insurance Company has failed to pay Invoice No. 00875214.
44. On or about January 30, 2012, OFIR sent American Creditors Life Insurance Company Invoice No. 00875909 for payment of \$25.00 for the Annual Statement Filing Fee.
45. Invoice No. 00875909 clearly indicated that American Creditors Life Insurance Company's payment of \$25.00 was due by March 1, 2012.
46. American Creditors Life Insurance Company's payment was not received until April 17, 2012, over one month late.
47. On July 2, 2009, OFIR sent American Creditors Life Insurance Company a Notice of Opportunity to Show Compliance concerning its failure to pay or timely pay required fees provided for in Sections 224, 240, 438, and 1208a of the Code.
48. American Creditors Life Insurance Company failed to show compliance with the Insurance Code.

49. On March 23, 2011, OFIR sent American Creditors Life Insurance Company a Notice of Opportunity to Show Compliance concerning its continuous and consistent failure to pay or timely pay required fees provided in Sections 224, 240, 438, and 1208a of the Code.
50. American Creditors Life Insurance Company failed to show compliance with the Code.
51. On January 27, 2012, OFIR sent American Creditors Life Insurance Company a letter requesting payment of past due statutory fees and giving them the option of voluntarily surrendering its certificate of authority.
52. American Creditors Life Insurance Company failed to respond to the letter.
53. American Creditors Life Insurance Company knew or had reason to know that Section 224(4) of the Code provides an insurer is subject to a regulatory fee and the Commissioner shall impose upon all insurers authorized to do business in this state a regulatory fee.
54. American Creditors Life Insurance Company has consistently failed to pay or timely pay the regulatory assessment fee, even after OFIR notified American Creditors Life Insurance Company of its delinquency.
55. American Creditors Life Insurance Company knew or had reason to know that Section 240(1) of the Code provides that the filing fee for annual statement of foreign and alien insurers, each year, subject to Section 476a, is \$25.00 and the agent's appointment fee, resident or nonresident, payable by an insurer, for each agent, each year is \$5.00.
56. American Creditors Life Insurance Company has consistently failed to pay or timely pay the annual statement filing fee and the agent appointment renewal fee, even after OFIR notified American Creditors Life Insurance Company of its delinquency.
57. American Creditors Life Insurance Company knew or had reason to know that Section 438(1) of the Code provides that each insurer, foreign, alien, U.S. branch, or domestic, transacting business within this state, shall annually, on or before March 1, prepare under oath and deposit with the Commissioner a statement concerning its affairs in a form and manner as prescribed by the Commissioner and the insurer shall pay the filing fee prescribed in section 240(1)(b).
58. American Creditors Life Insurance Company has consistently failed to pay or timely pay the annual statement filing fee, even after OFIR notified American Creditors Life Insurance Company of its delinquency.
59. American Creditors Life Insurance Company further knew or had reason to know that Section 1208a of the Code provides that an insurer shall pay an appointment fee and a renewal appointment fee as provided under section 240(1)(c) of the Code for each insurance producer appointed or renewed by the insurer.

60. American Creditors Life Insurance Company has consistently failed to pay or timely pay the agent appointment renewal fee, even after OFIR notified American Creditors Life Insurance Company of its delinquency.
61. American Creditors Life Insurance Company further knew or had reason to know that Section 436 of the Code provides that the Commissioner may suspend, revoke, or limit the certificate of authority of an insurer if he determines that the insurer's condition is no longer safe, reliable, or entitled to public confidence, or is unsound, or the insurer is using financial methods and practices in the conduct of its business that render further transaction of insurance by the insurer in this state hazardous to policyholders, creditors, or the public, the insurer fails to promptly comply with sections 222 or 438, the insurer has failed, within 30 days after notice of delinquency from the Commissioner, to cure its failure to pay the taxes, fees, assessments, or expenses required by this Act, or the insurer has violated any other provision of the Insurance Code that provides for suspension or revocation of its certificate of authority.
62. American Creditors Life Insurance Company is no longer safe, reliable, or entitled to public confidence due to its current and consistent failure to pay required statutory fees under Sections 224, 240, 438, and 1208a of the Code and therefore American Creditors Life Insurance Company's certificate of authority is subject to revocation.
63. American Creditors Life Insurance Company further knew or had reason to know that Section 476a of the Code provides that the Commissioner shall revoke the certificate of authority of an alien or foreign insurer refusing for 30 days to make payment of fees or taxes as required by this chapter.
64. American Creditors Life Insurance Company has been repeatedly notified of its current and consistent failure to pay required statutory fees under Sections 224, 240, 438, and 1208a of the Code and therefore American Creditors Life Insurance Company's certificate of authority is subject to revocation.
65. Based upon the actions listed above, American Creditors Life Insurance Company has committed acts that are grounds for the Commissioner ordering all appropriate sanctions under Sections 150, 436, 437, 438, 476a, and 1244 of the Code, for the American Creditors Life Insurance Company's current and/or continuous violations of Sections 224(4), 240(1), 436, 438(1), and 1208a of the Code.

C. ORDER

Based on the Statement of Law, and the Findings of Fact and Conclusions of Law above, it is ORDERED that:

1. American Creditors Life Insurance Company shall immediately cease and desist from violating the Insurance Code.
2. American Creditors Life Insurance Company shall immediately pay all past due invoices:
 - a. Invoice No. 00875214 - \$130.00 – Agent Appointment Renewal Fee.
 - b. Invoice No. 00869275 - \$250.00 – Regulatory Assessment Fee.
 - c. Invoice No. 00865409 - \$25.00 – Annual Statement Filing Fee.
3. The certificate of authority of American Creditors Life Insurance Company is hereby REVOKED.

5-4-12
Date


Annette E. Flood
Chief Deputy Commissioner